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SERVICE DATE – MARCH 15, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-103 (Sub-No. 19X)

THE KANSAS CITY SOUTHERN RAILWAY COMPANY—ABANDONMENT
EXEMPTION—IN WEBSTER PARISH, LA

Decided: March 14, 2006

The Kansas City Southern Railway Company (KCSR) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon approximately 1.12 miles of railroad between milepost 48.48 and milepost 49.60 in Springhill, Webster Parish, LA. Notice of the exemption was served and published in the Federal Register on August 11, 2005 (70 FR 46920-21). The exemption was scheduled to become effective on September 10, 2005.

By decision and notice of interim trail use or abandonment (NITU) served on September 9, 2005, the proceeding was reopened, and the notice was modified to the extent necessary to implement interim trail use/rail banking. A 180-day period was authorized to permit the City of Springhill, LA (the City), to negotiate an interim trail use/rail banking agreement with KCSR for the described line. The negotiating period under the NITU expired on March 9, 2006.

On March 3, 2006, the City filed a request to extend the NITU negotiating period for 180 days (until September 5, 2006). The City states that, despite good faith negotiations, the parties have not yet concluded such an agreement. However, the City further states that the parties believe that an agreement can be concluded within the extended time period. By letter filed on March 13, 2006, KCSR concurs in the request to extend the negotiating period. KCSR adds that it is negotiating with the City and that it has not abandoned the line.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and has indicated its willingness to continue trail use negotiations, the Board retains jurisdiction and the NITU negotiating period may be extended. Under the circumstances, an extension of the negotiating period is warranted. See Birt v. STB, 90 F.3d 580, 588-90 (D.C. Cir. 1996); Grantwood Village v. Missouri Pac. R.R. Co., 95 F.3d 654, 659 (8th Cir. 1996), cert. denied, 519 U.S. 1149 (1997). Accordingly, the NITU negotiating period will be extended to September 5, 2006.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The request to extend the NITU negotiating period is granted.
2. The negotiating period under the NITU is extended to September 5, 2006.
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary